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Attorneys for Plaintiff,
OWEN DIAZ

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

OWEN DIAZ,
Plaintiff,
v.
TESLA, INC. dba TESLA MOTORS, INC.;
Defendant.

Case No. 3:17-cv-06748-WHO

**SUPPLEMENTAL DECLARATION OF
MICHAEL RUBIN IN SUPPORT OF
AWARD OF ATTORNEY'S FEES AND
EXPENSES**

Retrial Date: March 27, 2023
Complaint filed: October 16, 2017
Hearing: January 10, 2024

**SUPPLEMENTAL DECLARATION OF MICHAEL RUBIN IN SUPPORT OF
AWARD OF ATTORNEY'S FEES AND EXPENSES**

I, Michael Rubin, declare as follows:

1. I am a partner in Altshuler Berzon LLP ("Altshuler Berzon"), a member of the California State Bar, and co-counsel to plaintiff Owen Diaz in this action. This declaration supplements and incorporates by reference the fees declaration I previously submitted in this matter on October 25, 2023, ECF 494-2. I make this declaration of my own personal knowledge, and I am competent to testify to the matters set forth herein.

2. In my previous declaration, I described the skills, experience, and hourly rates of the Altshuler Berzon professionals who worked on this matter, summarized the work we performed in conjunction with our co-counsel at California Civil Rights Law Group, Alexander Morrison + Fehr LLP, and the Collier Law Firm, LLP, and attached detailed contemporaneous time records and expense summaries based on the work we performed (after exercising billing judgment) through October 6, 2023.

2. Attached hereto as Exhibit 1 is a spreadsheet setting forth the additional work my Altshuler Berzon colleagues and I performed with respect to this fees litigation from October 7, 2023 through December 3, 2023 and the additional expenses we incurred during that time period. I personally exercised billing judgment with respect to the time entries reflected in Exhibit 1, just as I had done with respect to the time recorded in the spreadsheet attached to my previous declaration. Between October 7, 2023 and December 3, 2023, I spent 38.40 hours on fees-on-fees matters, my partner Corinne Johnson spent 22 hours, and associate Jonathan Rosenthal spent 4 hours. In the exercise of billing judgment, as shown on the attached Exhibit 1, Plaintiff is seeking compensation for only 33.10 hours of my time, 18.20 hours of Ms. Johnson's, and 3 hours of Mr. Rosenthal's. My Altshuler Berzon colleagues and I recorded the time reflected in Exhibit 1 in the same manner we recorded our earlier time, as explained in ¶14 of my previous declaration.

3. Some of the time reflected in the exhibits we previously submitted in this matter was for "travel" time. Altshuler Berzon customarily bills its hourly paying clients for time spent by

1 attorneys and other professionals traveling from our homes (or our office, in some instances
2 when we go into our office first) to depositions, court appearances, and other out-of-office
3 meetings. Whenever reasonably practicable, my colleagues and I perform substantive work on
4 the matter for which we are billing while we are traveling – for example, to prepare for the
5 upcoming event, to review our notes, to discuss issues with co-counsel, or to read relevant cases,
6 memoranda, and other materials.

7 I declare under penalty of perjury that the foregoing is true and correct to the best of my
8 knowledge. Executed this 4th day of December 2023, at San Francisco, California.

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12 Michael Rubin
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EXHIBIT 1

Diaz v. Tesla , AB LLP Hours and Lodestar 10/07/2023 Through 12/03/2023

<u>Biller</u>	<u>Initials</u>	<u>TOTAL HOURS</u>	<u>HOURS BILLED</u>	<u>NO CHARGE HOURS</u>	<u>2023 Rate</u>	<u>Lodestar</u>
Rubin, Michael	MR	38.40	33.10	5.30	1,275.00	\$42,202.50
Johnson, Corinne	CJ	22.00	18.20	3.80	825.00	\$15,015.00
Rosenthal, Jono	JMR	4.00	3.00	1.00	650.00	\$1,950.00
		<u>64.40</u>	<u>54.30</u>	<u>10.10</u>		<u>\$59,167.50</u>

Billing Code	Date	Billor	HOURS BILLED	NO CHARGE HOURS	Description
1583.001	10/07/23	MR	2.20		Edit fee declarations; prepare exhibits; edit fees brief
1583.001	10/09/23	MR	0.20		Emails re: fee application, hourly rates, declaration, issues
1583.001	10/10/23	MR	0.50		Edit fee declarations; emails re: same
1583.001	10/11/23	MR	1.60		Emails re: meet and confer; edit fees declarations; emails re: fees brief
1583.001	10/12/23	MR	4.20		Research, emails re: hourly rates; edit draft brief; emails to Cimone Nunley, Larry Organ re: same; telephone conferences with co-counsel
1583.001	10/13/23	MR	5.30		Research, edit fee motion; email with Cimone Nunley, Larry Organ re: same; videoconference with co-counsel re: meet and confer strategy; prepare for and conduct meet and confer, further strategy conference with co-counsel re: settlement and fees issues; edit proposed stipulation; prepare demand letter; emails re: same;
1583.001	10/15/23	MR	0.20		Meet and confer emails re: fee motion scheduling;
1583.001	10/16/23	MR	1.10		Edit declarations and brief; emails re: same;
1583.001	10/19/23	MR		0.60	Review and edit fee declarations; emails re: same; (No Charge)
1583.001	10/21/23	MR	2.70		Edit fees motion; emails re: same;
1583.001	10/23/23	MR		0.60	Emails re: fee brief research and different approaches; research re: same; review new declarations; emails re: same; (No Charge)
1583.001	10/23/23	JMR	3.00		Legal research re: multipliers in federal court;
1583.001	10/23/23	JMR		1.00	Legal research re: multipliers in federal court; (No Charge)
1583.001	10/24/23	MR		1.60	Edit fee declarations; emails re: same; (No Charge)
1583.001	10/25/23	MR	1.70		Edit fee brief, declarations; emails re: same; review, edit charts; strategy conferences with Larry Organ and Sabrina Grislis re: final issues
1583.001	11/14/23	MR		0.20	Emails re: fees issues, strategy, timing; (No Charge)
1583.001	11/15/23	CJ		0.80	Review opening fees brief; (No Charge)
1583.001	11/17/23	MR		0.10	Review opposition to fee petition; emails with co-counsel; (No Charge)
1583.001	11/18/23	CJ	1.80		Review and analyze opposition to fees motion and supporting declaration and exhibits;
1583.001	11/18/23	MR	0.70		Review Tesla's opposition, Posner declaration; exhibits; emails re: same;
1583.001	11/19/23	CJ		1.00	Videoconference with Larry Organ, Bernard Alexander, Michael Rubin, Cimone Nunley re: fees reply; (No Charge)
1583.001	11/19/23	MR	2.80		Prepare for and conduct videoconference re: reply in support of fees motion; emails re: same; prepare memo outlining arguments for fee reply briefs; emails re: same;
1583.001	11/20/23	MR		0.20	Review emails re: lodestar analysis; (No Charge)
1583.001	11/21/23	MR	0.30		Emails with Cimone Nunley re: issues in reply brief;
1583.001	11/29/23	MR	0.70		Review, edit fees brief; emails re: same;
1583.001	11/29/23	CJ	8.40		Edit draft fees reply
		CJ		2.00	Edit draft fees reply; (No Charge)
1583.001	11/30/23	MR	4.50		Edit fee brief; conferences with Corinne Johnson re: same;
		MR		2.00	Edit fee brief; conferences with Corinne Johnson re: same; (No Charge)
1583.001	11/30/23	CJ	3.60		Edit fees reply;
1583.001	12/01/23	CJ	4.40		Research, edit fees reply;
1583.001	12/01/23	MR	1.50		Edit fee reply; email with co-counsel re: same;
1583.001	12/02/23	MR	2.10		Review emails re: supplemental declarations; draft supplemental Rubin declaration; edit revised reply brief ; review and respond to Bernard Alexander edits, draft declaration; further edits to declarations;
1583.001	12/03/23	MR	0.80		Edit fee declarations; emails with co-counsel re: reply brief, edits;

Total Hours 10/07/2023 thru 12/03/2023:**54.30****10.10**